



House of Representatives

General Assembly

File No. 681

February Session, 2008

Substitute House Bill No. 5864

House of Representatives, April 17, 2008

The Committee on Appropriations reported through REP. MERRILL of the 54th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A NURSING HOME IMPROVEMENT PLAN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-351 of the general statutes is amended by
2 adding subsection (c) as follows (*Effective July 1, 2008*):

3 (NEW) (c) On or before December 31, 2008, and annually thereafter,
4 the Commissioner of Social Services, in consultation with the
5 Commissioner of Public Health, shall complete an inventory of all
6 publicly funded and private pay nursing home beds in the state. On or
7 before February 1, 2009, and annually thereafter, the Commissioner of
8 Social Services shall report to joint standing committees of the General
9 Assembly having cognizance of matters relating to human services and
10 public health on the results of the inventory, in accordance with
11 section 11-4a. The Commissioner of Social Services shall identify in
12 such report any geographic areas in the state that are in need of
13 additional nursing home beds and the number of beds needed in such
14 geographical areas. The Commissioner of Social Services shall also
15 identify any areas of the state in which there is a surplus of nursing

16 home beds.

17 Sec. 2. (NEW) (*Effective July 1, 2008*) In addition to the requirements
18 set forth in sections 17b-352 to 17b-354, inclusive, of the general
19 statutes or the 2008 supplement to the general statutes, the
20 Commissioner of Social Services, when determining whether to
21 approve a certificate of need request from a facility, as defined in
22 section 17b-352 of the 2008 supplement to the general statutes, shall
23 consider the following factors: (1) The inventory of nursing home beds
24 for the particular geographic region, (2) the age of the facility seeking
25 the certificate of need, and (3) whether the model of long-term care
26 afforded by such facility is consistent with the state's long-term care
27 plan developed pursuant to section 17b-337 of the 2008 supplement to
28 the general statutes. After considering such factors, the commissioner
29 shall grant, modify or deny the request for a certificate of need in
30 accordance with this section and said sections 17b-352 to 17b-354,
31 inclusive. The commissioner may deny a facility's request for a
32 certificate of need if the commissioner determines that the proposed
33 capital project is inconsistent with achieving the objectives of the state's
34 long-term care plan. The commissioner shall give priority to approval
35 of capital projects that: (A) Promote the development of alternative
36 models of long-term care that are consistent with the state's long-term
37 care plan, including, but not limited to, the Green House model and
38 the Small House model; and (B) increase long-term care options in
39 geographic regions of the state where there is a shortage of nursing
40 home beds.

41 Sec. 3. (NEW) (*Effective October 1, 2008*) (a) For purposes of this
42 section:

43 (1) "Department" means the Department of Public Health;

44 (2) "Direct care" means hands-on-care provided to residents of
45 nursing homes, including, but not limited to, feeding, bathing,
46 toileting, dressing, lifting and moving such residents, but does not
47 include food preparation, housekeeping or laundry services, except
48 when such services are required to meet the needs of any such resident

49 on an individual situational basis. Direct care shall not include care
50 provided by paid feeding assistants, as defined in 42 CFR 488.301; and

51 (3) "Nursing home" has the same meaning as provided in section
52 19a-537 of the general statutes.

53 (b) On and after July 1, 2009, each nursing home licensed by the
54 department pursuant to chapter 368v of the general statutes shall, as a
55 condition of continued licensure, develop, and upon request of the
56 department, make available for inspection a nurse staffing plan that is
57 sufficient to provide adequate and appropriate delivery of health care
58 services to patients in the ensuing period of licensure. The nurse
59 staffing plan shall promote a collaborative practice in the nursing
60 home that enhances patient care and the level of services provided by
61 nurses and other members of the nursing home's patient care team.

62 (c) Each nursing home shall establish a staffing committee that shall
63 assist in the preparation of the nurse staffing plan required pursuant to
64 subsection (b) of this section. The staffing committee shall include
65 registered nurses who provide direct patient care, licensed practical
66 nurses and certified nursing assistants. Each nursing home, in
67 collaboration with its staffing committee, shall develop and implement
68 the nurse staffing plan. Such plan shall: (1) Include the minimum
69 professional skill mix for each patient care unit in the nursing home,
70 including any special care units; (2) identify the nursing home's
71 employment practices concerning the use of licensed temporary and
72 traveling nurses; (3) set forth the level of administrative staffing in
73 each patient care unit of the nursing home that ensures direct care staff
74 are not utilized for administrative functions; (4) set forth the nursing
75 home's process for internal review of the nurse staffing plan; (5)
76 identify collective bargaining agreements that the nursing home is a
77 party to and certify the nursing home's compliance with such
78 agreements; and (6) include the nursing home's mechanism of
79 obtaining input from direct care staff, including licensed nurses and
80 other members of the nursing home's patient care team, in the
81 development of a nurse staffing plan.

82 (d) Each nursing home shall employ sufficient nurses and nurse's
 83 aides to provide appropriate direct care to residents of such nursing
 84 home, twenty-four hours per day, seven days per week. Each nursing
 85 home shall maintain aggregate licensed nurse and nurse's aide staffing
 86 levels at or above the following standards:

87 (1) On and after October 1, 2008, over a twenty-four-hour period,
 88 such nursing home shall provide not less than 3.5 hours of direct care
 89 and services per resident provided in the aggregate by licensed nurses'
 90 and nurse's aides;

91 (2) On and after January 1, 2009, over a twenty-four-hour period,
 92 such nursing home shall provide not less than 3.9 hours of direct care
 93 and services per resident provided in the aggregate by licensed nurses'
 94 and nurse's aides; and

95 (3) On and after May 1, 2009, over a twenty-four-hour period, such
 96 nursing home shall provide not less than 4.2 hours of direct care and
 97 services per resident provided in the aggregate by licensed nurses' and
 98 nurse's aides.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2008	17b-351
Sec. 2	July 1, 2008	New section
Sec. 3	October 1, 2008	New section

PH Joint Favorable Subst. C/R

APP

APP Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Social Services	GF - Cost	44,500,000	115,000,000

Municipal Impact: None

Explanation

Section 1 of this bill requires the Department of Social Services (DSS) to conduct an annual inventory of nursing home beds in the state and report these findings to the General Assembly. It is anticipated that this requirement will result in minimal, if any, cost.

Section 2 of the bill adds additional factors to consider when DSS reviews a certificate of needs (CON) request. While additional factors may alter the outcome of specific decisions, it is not expected to change the overall Medicaid nursing home costs

Section 3 of the bill increases the required hours of direct care in chronic and convalescent nursing homes (CCHs) in three steps: 3.5 hours per resident, per day by October 1, 2008; 3.9 hours by January 1, 2009 and 4.2 hours by May 1, 2009.

Annually, nursing homes must submit to the Department of Social Services (DSS) audited cost reports that detail direct care hours paid as defined by DSS. According to the 2006 annual cost reports, CCHs had a statewide average of 4.44 hours of paid direct care per resident, per day. These averages include hours paid to employees who may have been on sick or vacation leave. Therefore, an adjustment for paid leave must be made to these paid direct care averages to correlate to the actual staffed levels in the homes, as required by the bill. Based on a

study by the Program Review and Investigation Committee, this reduction would represent approximately ½ hour per resident, per day.

Utilizing this data, and factoring in fringe benefit costs for the homes, it is estimated that the annualized cost to the Medicaid program from the new staffing requirement would be \$115 million. It is estimated that the new staffing requirements would require increased staffing at 178 of the CCHs. Based on the phased implementation of these staffing levels required by the bill, these changes would have an estimated FY09 Medicaid cost of \$44.5 million.

It should be noted that these costs may vary as the current staffing patterns of nursing and nurses' aides may differ from home to home. The figures above assume that the current nurse/nurse's aide ratio would continue. However, should homes choose to meet the new requirements through only the addition of nurse's aides, the costs noted above would be reduced.

Additionally, the effort to hire a large number of additional staff in a relatively short time frame may increase the cost to hire staff at homes that are currently above the required staffing levels. A portion of these costs may be further passed on to the Medicaid program.

sHB 5021 (the budget bill, as reported by the Appropriations Committee) contains \$10 million to reflect increasing the minimum paid direct care hours per day to 4.1, effective March 1, 2009. The annualized cost of this initiative would be \$24 million. These figures relate to an increase in paid (not staffed) direct care hours for CCHs as reflected in their annual cost reports. These reports indicate that in 2006, CCH's had a paid average of 4.44 hours of direct care per resident, per day. Approximately 116 homes would be affected by this change. The level of funding included in sHB 5021 would translate to a CCH staffed level, as defined by this bill, of 3.6 hours of direct care per resident, per day.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5864

AN ACT CONCERNING A NURSING HOME IMPROVEMENT PLAN.

SUMMARY:

This bill:

1. requires a nursing home, as a condition of continued licensure by the Department of Public Health (DPH), to develop a nurse staffing plan and establish a staffing committee to help prepare it;
2. phases in new minimum nurse staffing levels for nursing homes based on an hours per day of direct care per resident standard that must be maintained over a 24 hour period;
3. requires the Department of Social Services (DSS), in consultation with DPH, to produce an annual inventory of nursing home beds in the state; and
4. requires DSS, in reviewing nursing home certificate of need (CON) applications, to consider additional factors such as the inventory required above, the nursing facility's age, and models of long-term care.

EFFECTIVE DATE: July 1, 2008 for the inventory and CON sections; October 1, 2008 for the nurse staffing plan and staffing level provisions.

NURSING HOME STAFFING

Nurse Staffing Plan

Beginning July 1, 2009 and as a condition of continued licensure, the bill requires each DPH-licensed nursing home to develop a nurse

staffing plan that is sufficient to provide adequate and appropriate health care service delivery to its patients in the license period. For purposes of the bill, “nursing home” means any chronic and convalescent facility (CCNH) or any rest home with nursing supervision (RHNS). The plan must promote a collaborative practice in the nursing home that improves patient care and the level of services provided by nurses and other members of the patient care team. The nursing home must make the plan available to DPH upon request.

The plan must:

1. include the minimum professional skill mix for each patient care unit in the nursing home, including any special care units;
2. identify the home’s employment practices concerning use of licensed temporary and traveling nurses;
3. establish the level of administrative staffing in each patient care unit that ensures direct care staff are not used for administrative functions;
4. describe the nursing home’s internal plan review process;
5. identify collective bargaining agreements that the home is a party to and certify the home’s compliance with them; and
6. include the home’s mechanism for involving direct care staff, including licensed nurses and other members of the home’s patient care team, in developing the staffing plan.

Staffing Committee

The bill requires each nursing home to establish a staffing committee to help prepare the nurse staffing plan. This committee must include registered nurses (RNs) who provide direct patient care, licensed practical nurses (LPNs), and certified nursing assistants. Each nursing home, in collaboration with its staffing committee, must implement the plan.

Staffing Levels

The bill requires each nursing home to employ sufficient nurses and nurse's aides to provide appropriate direct care to residents 24-hours per day, seven days per week. The nursing home must maintain aggregate licensed nurse and nurse's aide staffing levels over a 24-hour period at or above the following:

1. beginning October 1, 2008, at least 3.5 hours of direct care and services per resident;
2. beginning January 1, 2009, at least 3.9 hours of direct care and services per resident; and
3. beginning May 1, 2009, at least 4.2 hours of direct care and services per resident.

Currently, minimum nurse staffing levels are set by regulation in the Public Health Code (see BACKGROUND).

The bill defines "direct care" as hands-on-care provided to nursing home residents, including feeding, bathing, toileting, dressing, lifting, and moving the residents. It does not include food preparation, housekeeping, or laundry services, except when such services are required to meet the needs of a resident on an individual situational basis. Also under the bill, direct care does not include care provided by paid feeding assistants.

NURSING HOME BED INVENTORY

The bill requires the DSS commissioner, in consultation with the DPH commissioner, to complete an annual inventory of all publicly funded and private pay nursing home beds in the state. The first inventory must be done by December 31, 2008. The DSS commissioner must report annually on the inventory results to the Human Services and Public Health committees. The first report is due by February 1, 2009. The report must identify any geographic areas needing additional nursing home beds and the number needed and those areas with a surplus.

CERTIFICATE OF NEED

By law, a nursing home facility must apply for a CON from DSS if it intends to:

1. transfer all or part of its ownership or control prior to initial licensure,
2. introduce any additional service or function into its program of care or expand an existing service or function,
3. terminate a service or decrease substantially its total bed capacity,
4. make a capital expenditure over \$1 million that increases the facility's size by the greater of over 5,000 square feet or five percent of the existing footage,
5. make a capital expenditure of \$2 million, or
6. acquire major medical equipment requiring a capital expenditure of over \$400,000.

Under current law, there is a moratorium on CONs for additional nursing home beds until June 30, 2012. Exceptions are provided for:

1. beds restricted to use by patients with AIDS or traumatic brain injury;
2. beds associated with a continuing care facility that guarantees life care for its residents;
3. Medicaid-certified beds to be relocated from one licensed nursing facility to another licensed nursing facility, provided (a) the availability of beds in an area of need will not be adversely affected, (b) such relocation will not result in an increase in state expenditures, and (c) the relocation results in a reduction in the number of nursing facility beds in the state;
4. a request for no more than 20 beds from a nursing facility that

does not participate in Medicaid or Medicare and demonstrates the financial ability to provide lifetime nursing home services to its residents without such participation; and

5. a request for no more than 20 beds associated with a free standing facility providing hospice care services for terminally ill persons authorized by DPH to do so (CGS § 17b-354).

The bill requires DSS, when determining whether to approve a nursing home's CON request, to also consider (1) the inventory of nursing home beds for a particular geographic region, (2) the facility's age, and (3) whether the model of long-term care the facility provides is consistent with the state's long-term care plan developed by the Long-Term Care Planning Committee.

The DSS commissioner must grant, modify, or deny the CON after considering these factors and according to requirements of current law. Under the bill, the commissioner can deny the CON if he determines that the proposed capital project is inconsistent with the state's long-term care plan. He must give priority to approval of capital projects that (1) promote the development of alternative models of long-term care that are consistent with the state plan, including the Green House model and the Small House model and (2) increase long-term care options in geographic areas with a shortage of beds.

BACKGROUND

Current Minimum Nurse Staffing Standards for Nursing Homes

DPH licenses nursing homes at two levels of care: CCNH, which provide skilled nursing care, and RHNS, which provide intermediate care. A nursing home can be licensed at one or both levels of care.

Minimum staffing requirements for CCNHs and RHNSs are set by regulation (CT Agencies Reg. § 19-13D8t). The actual standards vary somewhat depending on whether the care is at a CCNH or an RHNS level. Most of the nursing beds in the state are CCNHs. The nurse-to-resident hours per day are set separately for the periods from 7 a.m. to 9 p.m. and 9 p.m. to 7 a.m. and are less for RHNSs than for CCNHs, as

shown below. (Under the bill, there is one standard for both types of nursing home and the requirement must be met over a 24-hour period.)

Direct Care Personnel	CCNH		RHNS	
	7 a.m. to 9 p.m.	9 p.m. to 7 a.m.	7 a.m. to 9 p.m.	9 p.m. to 7 a.m.
Licensed Nursing Personnel	.47 hours per patient (hhp) (28 min.)	.17 hpp (10 min.)	.23 hpp (14 min.)	.08 hpp (5 min.)
Total Nurses and Nurse Aide Personnel	1.40 hpp (1 hr. 24 min.)	.50 hpp (30 min.)	.70 hpp (42 min.)	.17 hpp (10 min.)

“Green House” and “Small House” Models

Generally, “Green Houses” or “Small Houses” are “deinstitutionalized” nursing homes. They are self-contained dwellings for seven to 10 residents requiring nursing home levels of care. They incorporate physical design changes such as private rooms and bathrooms, a residential-style kitchen, a communal dining area, and accessible outdoor space. Institutional elements are avoided. A cluster of green houses, in effect, form a nursing facility.

Related Bills

SB 385 (File 596) and HB 5794 have provisions on nursing home staffing levels. SB 32 addresses nursing home CONs.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute Change of Reference
Yea 30 Nay 0 (03/17/2008)

Appropriations Committee

Joint Favorable Substitute

Yea 32 Nay 17 (03/28/2008)